

117TH CONGRESS  
1ST SESSION

# H. R. 5622

To amend title XXVII of the Public Health Service Act to allow for premium rates in the group and individual health insurance markets to vary during the COVID–19 emergency period based on COVID–19 vaccination status, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 19, 2021

Mr. GALLEGO introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XXVII of the Public Health Service Act to allow for premium rates in the group and individual health insurance markets to vary during the COVID–19 emergency period based on COVID–19 vaccination status, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-  
2 tives of the United States of America in Congress assembled,*

**3 SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Vaccine Accountability  
5 and Premium Protection Act”.

1   **SEC. 2. FINDINGS.**

2       Congress finds the following:

3           (1) More than 700,000 COVID–19 deaths have  
4       been reported in the United States and many public  
5       health experts believe this to be an undercount of  
6       the actual death toll of the virus.

7           (2) There are three vaccines that have received  
8       either FDA approval or Emergency Use Authoriza-  
9       tion, have undergone rigorous testing, and have been  
10      proven to be safe and highly effective.

11          (3) These vaccines are free and widely available  
12      in the United States to protect individuals against  
13      COVID–19.

14          (4) Full vaccination has been proven to reduce  
15      the risk of moderate to severe COVID–19 infection  
16      by five times and hospitalization and death by more  
17      than ten times.

18          (5) Over 20 percent of Americans eligible to re-  
19      ceive the vaccine remain unvaccinated.

20          (6) COVID–19 hospitalizations of unvaccinated  
21      individuals have cost the U.S. health system an esti-  
22      mated \$5.7 billion between June 2021 and August  
23      2021.

24          (7) Some health insurers have proposed or pre-  
25      dicted increases in premium costs due to higher

1       health care costs and higher utilization because of  
2       COVID–19-related services.

3               (8) Evidence shows that the ongoing COVID–  
4       19 pandemic continues to impact Americans' phys-  
5       ical and mental health negatively, has increased sub-  
6       stance use and drug overdoses, and has led to hos-  
7       pitals rationing care for non-COVID–19-related  
8       care.

9               (9) The over 20 percent of eligible Americans  
10      who have not been vaccinated against COVID–19  
11      are jeopardizing their own health, the health of their  
12      communities, and the ability of local health systems  
13      to provide comprehensive, high-quality care to every-  
14      one who needs it.

15               (10) The over 20 percent of eligible Americans  
16      who have not been vaccinated against COVID–19  
17      are disproportionately responsible for the continu-  
18      ation of community spread of COVID–19 and the  
19      public health emergency in America, as well as its  
20      associated economic consequences.

1 SEC. 3. ALLOWING PREMIUM RATES IN GROUP AND INDIVIDUAL  
2 HEALTH INSURANCE MARKETS TO VARY BASED ON COVID-19 VACCINATION STATUS.

5       Section 2701(a) of the Public Health Service Act  
6 (300gg(a)) is amended—

7 (1) in paragraph (1)(A)—

10 (B) by adding at the end the following new  
11 clause:

22 (2) in paragraph (4)—

(A) in the header, by striking "OR TO-BACCO USE" and inserting ", TOBACCO USE, OR VACCINATION STATUS"; and

1                             (B) by striking “clauses (iii) and (iv)” and  
2                             inserting “clauses (iii), (iv), and (v)”;  
3                             (3) by adding at the end the following new  
4                             paragraph:

5                             “(6) CONDITIONS FOR VARYING PREMIUMS BY  
6                             VACCINATION STATUS.—A health insurance issuer  
7                             offering health insurance coverage in the individual  
8                             or small group market (or, if applicable under para-  
9                             graph (5), the large group market), may vary the  
10                            premium rate with respect to the particular plan or  
11                            coverage involved by the factor described in para-  
12                            graph (1)(A)(v) during any portion of the period de-  
13                            scribed in such paragraph only if each of the fol-  
14                            lowing conditions are met:

15                             “(A) An increase pursuant to paragraph  
16                             (1)(A)(v) may be made to the premium rate of  
17                             an enrollee with respect to the particular plan  
18                             or coverage only with respect to months during  
19                             such portion of such period with respect to  
20                             which each of the following applies to the en-  
21                             rollee:

22                             “(i) The enrollee is, based on guide-  
23                             lines of the Food and Drug Administration  
24                             and of the Centers for Disease Control and

1                   Prevention, eligible for a COVID–19 vac-  
2                   cine.

3                   “(ii) The enrollee is not fully vac-  
4                   cinated (as defined by the Centers for Dis-  
5                   ease Control and Prevention) for COVID–  
6                   19.

7                   “(iii) The enrollee is not an individual  
8                   who has not been fully vaccinated by rea-  
9                   son of a verified medical condition or an  
10                  objection to the vaccine on the basis of sin-  
11                  cerely held religious beliefs.

12                  “(B) The amount of premium applied with  
13                  respect to an enrollee with respect to the par-  
14                  ticular plan or coverage during such portion of  
15                  such period after application of such paragraph  
16                  (1)(A)(v) does not result in a premium rate  
17                  that exceeds an amount equal to 10 percent of  
18                  the enrollee’s household income for such portion  
19                  of such period.

20                  “(C) The issuer pays to the Secretary of  
21                  the Treasury an amount equal to 25 percent of  
22                  the amount by which—

23                  “(i) the total premiums charged with  
24                  respect to the particular plan or coverage  
25                  during such portion of such period after

1 application of such paragraph (1)(A)(v);  
2 exceeds

3 “(ii) the total premiums that would  
4 have been charged with respect to such  
5 plan or coverage during such portion of  
6 such period without application of such  
7 paragraph.

8 “(D) The issuer certifies to the Secretary  
9 of Health and Human Services that the pre-  
10 mium rate applied with respect to enrollees who  
11 are fully vaccinated (as defined by the Centers  
12 for Disease Control and Prevention) for  
13 COVID–19 with respect to the particular plan  
14 or coverage on vaccinated individuals will not be  
15 increased during such portion of such period by  
16 reason of increased costs associated with the  
17 emergency period described in paragraph  
18 (1)(A)(v).

19 “(E) Before applying an increase to the  
20 premium rate pursuant to paragraph (1)(A)(v),  
21 the issuer notifies each enrollee with respect to  
22 the particular plan or coverage who will be sub-  
23 ject to such increase in premium rate and pro-  
24 vides each such enrollee with information on  
25 where and how to receive a vaccine for COVID–

1           19 without cost to such enrollee for such vac-  
2           cine.”.

3   **SEC. 4. SENSE OF CONGRESS RELATED TO THE SERIOUS-**  
4           **NESS OF PRESENTING, CREATING, OR DIS-**  
5           **TRIBUTING FRAUDULENT VACCINATION**  
6           **CARDS.**

7       It is the sense of Congress that—

8           (1) any individual falsely representing them-  
9       selves as vaccinated against COVID–19 undermines  
10      mitigation efforts, endangers public health, and puts  
11      those around them at increased risk for contracting  
12      COVID–19;

13       (2) the presentation, sale, purchase, or distribu-  
14      tion of counterfeit COVID–19 vaccination cards ap-  
15      pearing to be issued by the Centers for Disease Con-  
16      trol and Prevention or official vaccination cards  
17      filled out with information falsely indicating that a  
18      person who has not received the COVID–19 vaccina-  
19      tion is indeed vaccinated is a serious crime in viola-  
20      tion of Federal law;

21       (3) an individual guilty of the crime of pre-  
22      senting or purchasing a fraudulent vaccination card  
23      should, in accordance with law, be subject to a fine  
24      of not less than \$5,000; and

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